

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, September 14, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Gene Carroll, Dick Esseks, Gerry Krieser, Roger Larson, Melinda Pearson, Lynn Sunderman, Mary Bills-Strand and Tommy Taylor; Marvin Krout, Ray Hill, Steve Henrichsen, Brian Will, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held August 31, 2005. Motion for approval made by Carroll, seconded by Krieser and carried 9-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Sunderman, Bills-Strand and Taylor voting 'yes'.

### **CONSENT AGENDA**

#### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

##### **BEFORE PLANNING COMMISSION:**

September 14, 2005

Members present: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 05060, CHANGE OF ZONE NO. 05066, SPECIAL PERMIT NO. 05036 and SPECIAL PERMIT NO. 05044.**

Ex Parte Communications: None.

Bills-Strand moved to approve the Consent Agenda, seconded by Pearson and carried 9-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

**Note:** This is final action on Special Permit No. 05036 and Special Permit No. 05044, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**CHANGE OF ZONE NO. 2531CC,**  
**AN AMENDMENT TO THE**  
**WILLIAMSBURG VILLAGE PLANNED UNIT DEVELOPMENT,**  
**ON PROPERTY LOCATED AT**  
**3821 WILLIAMSBURG DRIVE.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 14, 2005

Members present: Esseks, Carroll, Taylor, Larson, Sunderman, Person, Krieser, Bills-Strand and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Brian Will of Planning staff submitted a letter in support from Tom Hardesty, Chair of Architectural Review Committee of the Williamsburg Village Homeowners Association.

Pearson inquired as to why this is not considered a variance through Board of Zoning Appeals. Will explained that this is the last remedy prior to an application to the Board of Zoning Appeals. It cannot be done administratively because the PUD ordinance gives the City Council authority to make adjustments to the setbacks. If this application were denied by the City Council, then the recourse would be to apply to Board of Zoning Appeals for a variance; however, before being eligible to apply to the Board of Zoning Appeals, all other remedies must be exhausted, and this is one of those other remedies. If the proposed amendment does not meet the setback requirements, the first recourse is to seek an amendment to the PUD or CUP.

Esseks inquired whether the 27.5 ft. setback is specific to this PUD and not part of our general ordinance. Will explained that 27.5 feet is the setback for the zoning district. There were no adjustments to the rear yard setbacks as part of this PUD.

Esseks inquired whether there is any history as to the risk the City takes in allowing this reduction. Will stated that the staff did an inventory and there is a history of similar adjustments to rear and side yard setbacks in both community unit plans and planned unit developments that have been granted by the city under similar circumstances.

Will confirmed that the immediate neighbors were notified of this application and this hearing. All property owners within 200 feet received notice of this public hearing.

Proponents

1. **DaNay Kalkowski** appeared on behalf of **Jerry and Annette Weber**, the owners of Lot 1, Block 6, Williamsburg Addition. The Webers are asking for a reduction in the rear yard setback to allow construction of a sunroom in the exact location where they already have a

covered and screened-in patio. The lot is unique with five sides – the house is situated toward Williamsburg Village and access is taken from this lot through an outlot. Driving by, most people would presume that the front yard is the front of the house facing Williamsburg Boulevard, and that the area of the porch would be a side yard. That is not the case. The real frontage is Williamsburg Drive. When the current owners moved into the home, it included a covered patio which was screened in a few years later. This year they decided to turn the patio area into a sunroom.

Kalkowski went on to explain that the contractor applied for and obtained a building permit for the sunroom to be built in the exact location of the screened-in porch. The issuer considered the sunroom to be located in a side yard. Consequently, the contractor proceeded to tear out the floor, prop up the roof and pour footings for the sunroom walls in accordance with the building permit. When the building inspector inspected the footings, he refused to approve the footings because they were located within the rear yard setback. The Webers are requesting this amendment to permit them to finish the sunroom in an area that, for all intents and purposes, operates like a side yard on this lot. Kalkowski submitted that this amendment does not affect any neighbors. There are mature trees along the back of the yard screening the area from the adjoining neighbors. Staff is recommending approval, and there is a letter in support from the Architectural Review Committee of the Williamsburg Homeowners Association. Kalkowski advised that she also had a phone conversation with one other neighbor who was not opposed.

The address of the property is “Williamsburg Drive”. Building & Safety does not have the original building permit that was issued because they only keep them for 10 years.

There was no testimony in opposition.

#### Staff questions

Carroll clarified with staff that this application pertains only to the sunroom portion of the house and does not change the yard setbacks for the whole house, e.g. they cannot add to the house by this action. Will confirmed that this setback adjustment is just for what is shown on the site plan for construction of the sunroom.

#### **ACTION BY PLANNING COMMISSION:**

September 14, 2005

Larson moved to approve the staff recommendation of conditional approval, seconded by Bills-Strand and carried 9-0: Esseks, Carroll, Taylor, Larson, Sunderman, Pearson, Krieser, Bills-Strand and Carlson voting ‘yes’. This is a recommendation to the City Council.

**PRELIMINARY PLAT NO. 04017**  
**TWIN PINES ESTATES**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 33<sup>RD</sup> STREET AND W. DENTON ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 14, 2005

Members present: Esseks, Carroll, Taylor, Larson, Sunderman, Person, Krieser, Bills-Strand and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

**1. Mike Rierden** appeared on behalf of the applicant and agreed with all staff conditions of approval.

Esseks inquired whether this would be lagoons or septics for wastewater system. Lyle Loth of ESP stated that there would probably be some of each, depending upon percolation rates. NDEQ has recently made the size of the lots a little more restrictive. Historically, NDEQ required a 3-acre lot, which in most cases would accommodate a sewage lagoon. That is basically the fallback that we have had. If the soil percolates adequately, then a conventional septic system is usually the preferred option. However, the new standards do require that if the buildable area of the lot is three acres or more, a lagoon is acceptable. If it is less than three acres, then the requirement is to provide two perc tests that are adequate to support a conventional septic system. Pending that testing, Loth did not know for sure what the situation would be for this plat.

Esseks noted that this is in an area of unsewered residences. Is there a plan for central sewer to be extended to this area? Loth state, "not to my knowledge." Esseks then inquired whether there is a time when this will reach a limit in order to be safe at all. Loth was not aware that there would be such a time when it would become unsafe.

There was no testimony in opposition.

Staff questions

Carlson asked staff to clarify why there is no build-through requirement on this proposal. Tom Cajka of Planning staff advised that this application was originally submitted before the build-through text changes were in place. When the build-through regulations were originally adopted, they only applied to community unit plans. This is not a CUP, but a straight subdivision under AGR zoning. In other words, this plat is grandfathered from the build-through regulations.

**ACTION BY PLANNING COMMISSION:**

September 14, 2005

Bills-Strand moved to approve the staff recommendation of conditional approval, seconded by Carroll and carried 9-0: Esseks, Carroll, Taylor, Larson, Sunderman, Pearson, Krieser, Bills-Strand and Carlson voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**MISCELLANEOUS NO. 05017 (424 N. Coddington Avenue);**

**MISCELLANEOUS NO. 05018 (1661 Timber Ridge Road);**

**MISCELLANEOUS NO. 05019 (5516 Hunts Drive); and**

**MISCELLANEOUS NO. 05020 (416 N. Coddington Avenue),**

**REQUESTS FOR "REASONABLE ACCOMMODATION".**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 14, 2005

Members present: Esseks, Carroll, Taylor, Larson, Sunderman, Person, Krieser, Bills-Strand and Carlson.

Staff recommendation: Approval of Miscellaneous No. 05018 and 05019; and conditional approval of Miscellaneous No. 05017 and 05020.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a request for deferral from the applicant and eight e-mail messages in opposition.

Carroll confirmed that the applicant is waiving the 45 day rule in requesting this delay. In other words, the requirement to hold a public hearing within 45 days of the application is being waived by the applicant by requesting a two-week delay. Carroll wondered whether these applications could be delayed four weeks. Rick Peo, City Law Department, advised that the applicant has only requested a two-week delay, which puts the hearing beyond the 45 days. He believes that the applicant's waiver of the 45 days only goes to the extent of the next public hearing on September 28<sup>th</sup>, unless there are additional requests for continuance. However, Peo suggested that he did advise the applicant of the general procedure that if people show up today, they would be allowed to testify if they didn't want to come back in two weeks.

Bills-Strand moved to defer two weeks, with continued public hearing and action on September 28, 2005, seconded by Larson and carried 8-1: Esseks, Carroll, Taylor, Larson, Sunderman, Krieser, Bills-Strand and Carlson voting 'yes'; Pearson dissenting.

The applicant was not present and there was no public testimony.

**CHANGE OF ZONE NO. 05052,**  
**UNIVERSAL ADDITION PLANNED UNIT DEVELOPMENT,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 14<sup>TH</sup> STREET AND PIONEERS BLVD.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 14, 2005

Members present: Esseks, Carroll, Taylor, Larson, Sunderman, Person, Krieser, Bills-Strand and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced a request from the applicant for a two-week deferral.

Carroll moved to defer two weeks, with continued public hearing and action on September 28, 2005, seconded by Krieser and carried 9-0: Esseks, Carroll, Taylor, Larson, Sunderman, Pearson, Krieser, Bills-Strand and Carlson voting 'yes'.

There was no public testimony.

**CHANGE OF ZONE NO. 05042**  
**FROM O-3 OFFICE PARK TO**  
**B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT,**  
**and**  
**USE PERMIT NO. 89C,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 14<sup>TH</sup> STREET AND PINE LAKE ROAD.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 14, 2005

Members present: Esseks, Carroll, Taylor, Larson, Sunderman, Person, Krieser, Bills-Strand and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

The Clerk announced a request from the applicant for a four-week deferral.

Bills-Strand moved to defer four weeks, with continued public hearing and action on October 12, 2005, seconded by Taylor and carried 9-0: Esseks, Carroll, Taylor, Larson, Sunderman, Pearson, Krieser, Bills-Strand and Carlson voting 'yes'.

There was no public testimony.

There being no further business, the meeting was adjourned at 1:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on September 28, 2005.

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